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BUREAU

June 1, 1973

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Dr. John C. Geyer
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The John Hopkins University
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Re: Consolidated Edison Company
of New York, Inc.
Indian Point Unit No. 2
AEC Docket No. 50-247

Gentlemen:

The belated letter of May 9, 1973, from George E. Segnit, Mayor of the Village of Buchanan, regarding the possible installation of cooling towers at Indian Point, raises more questions than it answers. First, the letter does not state what specific provisions of the zoning ordinance would limit the height of cooling towers or even whether any such provisions would be applicable to a public utility such as Con Edison. Second, the letter does not explain how this matter was presented to the village or what information the Mayor had before him when the letter was written. Such information is particularly significant since the letter was written under the mistaken impression that the Board is merely considering "requesting" the installation of cooling towers at Indian Point rather than mandating them as a condition to the license. Third, the letter does not indicate the official policy of Buchanan toward the Indian Point units as a result of the ordinance. For example, would the village insist that the applicant move its operations out of Buchanan rather than permit a

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zoning variance for cooling towers? Fourth, it is the Village Planning Board and not the Mayor which would rule on an application by Con Edison for a zoning variance, assuming one is even needed. The Mayor, therefore, is not the appropriate authority to be speaking on this matter. His letter, in fact, does nothing more than speculate on what the Planning Board may ultimately do in a hypothetical situation.

It is the State's opinion that the issue raised by the Mayor's letter is unworthy of the Board's consideration at least until the above questions are answered and the matter is further clarified. The responsible village authorities should be requested to clarify their position immediately. At that point, the Board will be in a position to determine whether this new matter warrants a reopening of the hearing.

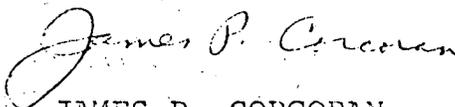
It is our understanding that Con Edison had been in communication with village officials shortly before the Mayor's letter was written. The applicant should detail its involvement in this eleventh-hour affair.

The State of New York does not oppose the reopening of the hearing if the applicant wishes to do so as a prerequisite to offering the village letter in evidence. However, the State must note that any delay occasioned by a reopening of this hearing must necessitate a delay in the issuance of an operating license to the applicant. Any other result would only encourage prospective applicants to engage in dilatory maneuvers. If the applicant is prepared to accept such a delay, the State would have no objection to a motion by the applicant to reopen the hearing.

Very truly yours,

LOUIS J. LEFKOWITZ
Attorney General

By



JAMES P. CORCORAN
Assistant Attorney General

JPC:rab

cc: Myron Karman, Esq.
Anthony Z. Roisman, Esq.
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Atomic Safety & Licensing Board Panel
Secretary, U. S. Atomic Energy
Commission
George E. Segnit, Mayor